

### **REMARKS**

In response to the Office Action dated October 18, 2005, Applicants respectfully request reconsideration.

#### **35 U.S.C. § 102 rejections**

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,297,031 (Gutterman).

Gutterman does not teach, disclose, suggest, or make obvious a system providing a measure of performance of participants to a trade management process as recited in claim 1. The Examiner cited Col. 4, ll. 6-52 and Col. 7, l. 59 – Col. 8, l. 66 of Gutterman as teaching performance processing means for generating a measure of performance with respect to a first participant as a function of time-of-completion information, the measure of performance being a function of the time elapsed between the completion of steps in the trade management process. (Office action dated 10/18/05, p. 3). Col. 4, ll. 6-52 of Gutterman are a general discussion of ordering strategies and various methods of ordering securities (e.g., a “stop limit order,” a “market-if-touched” order, an “alternative order”). Col. 7, l. 59 – Col. 8, l. 66 of Gutterman discuss a workstation receiver module 18 that receives orders and associates a time stamp with the orders. The workstation is an electronic system used by a broker to manage the orders present in the broker’s deck at any given time. *Id.*, Col. 6, ll. 33-35. Gutterman uses the time stamp to sort pending orders using, for example, a first-in-first-out scheme. Col. 8, ll. 33-37. Independent claim 1, however, recites a system for providing a measure of performance of participants to a trade management process, including a processor configured to generate a post-trade measure of performance as a function of time elapsed between steps in the trade management process.

Furthermore, the Examiner characterized as non-persuasive Applicants’ argument that Gutterman does not disclose performance processing means that generate a measure of performance as a function of the time elapsed between steps in the process. (Office Action dated 10/18/05, p. 9). Applicants respectfully request the Examiner to point out any portions of Gutterman disclosing a time stamp that is an elapse of time between

steps. Assuming, *arguendo*, that Gutterman discloses an elapse of time between steps, the cited portions of Gutterman fail to teach a processor configured to generate a measure of performance as a function of the elapsed time. For at least these reasons, independent claim 1 is patentable over Gutterman.

For at least the reasons stated above with respect to independent claim 1, dependent claims 2-4, which depend from independent claim 1, are patentable over Gutterman.

### **35 U.S.C. § 103 rejections**

Claims 5-8 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,247,000 (Hawkins) in view of Gutterman.

Hawkins in view of Gutterman does not teach, disclose, suggest, or make obvious a system providing a measure of performance of participants to a trade management process as does claim 5. The Examiner cited Col. 14, ll. 25-51 of Gutterman as disclosing an information processing system coupled to said trade management system and adapted for generating a measure of performance as a function of time information. (Office Action dated 10/18/05, p. 6). The portions of Gutterman cited by the Examiner discuss a workstation 10 that provides additional information on the history of selected orders that arrived in the workstation that day, such as previously rejected orders, accepted-and-filled orders, and pending orders. Col. 14, ll. 26-27. Independent claim 5, however, recites a system providing a measure of performance including an information processing system coupled to a trade management system that is configured to generate a measure of post-trade performance as a function of time information. The Examiner does not assert that Hawkins makes up for the deficiencies noted above with respect to Gutterman, thus independent claim 5 is patentable for at least the above reasons.

Claims 6-8, which depend from independent claim 5, stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hawkins in view of Gutterman. The Examiner does not assert that Hawkins makes up for the deficiencies noted above with respect to Gutterman. Thus, claims 6-8 are patentable for at least the same reasons discussed above with respect to independent claim 5.

Hawkins in view of Gutterman does not teach, disclose, suggest, or make obvious a method of providing a measure of performance of participants to a trade management process as does claim 10. The Examiner cited Col. 14, ll. 25-51 of Gutterman as disclosing generating a measure of performance as a function of elapsed time between a first communication and a second communication. (Office Action dated 10/18/05, p. 9) The portions of Gutterman cited by the Examiner discuss a workstation 10 that provides additional information on the history of selected orders that arrived in the workstation that day, such as previously rejected orders, accepted-and-filled orders, and pending orders. Col. 14, ll. 26-27. Independent claim 10, however, recites a method of providing a measure of performance including generating a measure of post-trade performance as a function of an elapsed time between first and second communications. The Examiner does not assert that Hawkins makes up for the deficiencies noted above with respect to Gutterman, thus independent claim 10 is patentable for at least the above reasons.

#### **Claims 11-14**

Claims 11-14 have been added. Applicants assert that no new matter has been introduced by claims 11-14. Applicants assert that claims 11-14 are patentable, and notice to that effect is respectfully requested.

#### **Conclusion**


Based on the foregoing, this application is believed to be in allowable condition, and a notice to that effect is respectfully requested. If a telephone conversation with Applicant's representative would help expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at (617) 542-6000.

The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account 50-0311, Reference No. 20558-011.

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Respectfully submitted,

  
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